

LEGISLATURE OF NEBRASKA  
NINETY-EIGHTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 518**

Introduced by Synowiecki, 7

Read first time January 17, 2003

Committee: Urban Affairs

A BILL

- 1 FOR AN ACT relating to air quality; to amend sections 81-15,135 and
- 2 81-15,136, Reissue Revised Statutes of Nebraska; to adopt
- 3 the Citizen Oversight Committee Act; to change provisions
- 4 relating to permits; and to repeal the original sections.
- 5 Be it enacted by the people of the State of Nebraska,

1           Section 1.   Sections 1 to 9 of this act shall be known  
2 and maybe cited as the Citizen Oversight Committee Act.

3           Sec. 2.   The Legislature finds that:

4           (1) No daily monitoring of odors emanating from waste  
5 water treatment plants occurs except for monitoring by olfactory  
6 senses;

7           (2) Such olfactory monitoring leads to great variance of  
8 reported intensity; and

9           (3) There is a need to ensure consistent reporting of  
10 odor intensity.

11          Sec. 3.   For purposes of the Citizen Oversight Committee  
12 Act:

13          (1) Committee means a citizen oversight committee created  
14 pursuant to section 4 of this act; and

15          (2) Plant means a waste water treatment plant that is  
16 located in a city of the metropolitan class and that has a capacity  
17 flow between thirty-three million and forty-two million gallons per  
18 day or more of influent.

19          Sec. 4.   A citizen oversight committee shall be created  
20 for each plant to which the Citizen Oversight Committee Act  
21 applies. The purposes of the committee are to (1) provide  
22 recommendations to the Department of Environmental Quality relating  
23 to renewal of a plant's permit, (2) review and report on the  
24 effectiveness of the mitigating measures mandated by public  
25 agencies responsible to assure that state and local regulatory  
26 entities are fully informed of community concerns regarding the  
27 status of air quality in the area of the plant, (3) provide an  
28 easily accessible public forum for community concerns, (4) monitor

1 environmental issues relating to the plant, (5) encourage  
2 communication between plant officials and the surrounding  
3 community, (6) ensure compliance with federal, state, and local air  
4 quality standards, and (7) ensure that plant odors are not  
5 negatively impacting the quality of life for citizens living or  
6 working near a plant.

7           Sec. 5. The committee shall consist of the following  
8 members:

9           (1) The member of the Legislature in whose legislative  
10 district the plant is located;

11           (2) The member of the local governing board of the city  
12 in whose election district the plant is located;

13           (3) A representative from the Department of Environmental  
14 Quality;

15           (4) A representative, who is not a member of the  
16 governing board, of the city in which the plant is located,  
17 appointed by the mayor of such city;

18           (5) Two representatives of citizen organizations,  
19 appointed by the mayor of the city in which such plant is located;  
20 and

21           (6) Two representatives of the public works department  
22 who are employed in management positions by the plant, who shall be  
23 nonvoting members of the committee.

24           Sec. 6. The committee shall establish rules of order,  
25 elect a chairperson, vice-chairperson, and secretary from among its  
26 membership, and act by consensus whenever possible. The committee  
27 shall meet at least biannually but may meet more frequently as  
28 conditions warrant, upon the call of the chairperson. Minutes of

1 each meeting shall be recorded and kept by the secretary. Meetings  
2 of the committee shall be subject to sections 84-1408 to 84-1414.

3           Sec. 7.     The committee, in cooperation with the local  
4 health department, shall set up an air-quality monitoring system in  
5 a two-mile radius of the plant. Such system shall consist of  
6 appropriate scientific instruments to determine the levels of  
7 various chemicals that are used in treating sludge or byproducts of  
8 sludge, including, but not limited to, hydrogen sulfide, chlorine,  
9 ferrous sulfide, and any other chemicals that may cause respiratory  
10 complications or burning of eyes, as determined by the material  
11 safety data sheets provided by the federal government. The system  
12 shall have the capability to determine if the odors emanating from  
13 the plant are within federal, state, and local air quality  
14 guidelines applicable to plants, and the system shall be available  
15 for inspection twenty-four hours per day. The system shall be  
16 activated only when complaints to the city reporting hotline of  
17 burning eyes, difficulty breathing, sore throat, and other physical  
18 manifestations are higher than normal reporting statistics.

19           Sec. 8.     The city in which the plant is located shall  
20 submit to its governing body, to the Legislature, and to the  
21 federal Environmental Protection Agency region in which the plant  
22 is located a report on its plan for compliance with the  
23 requirements of the Citizen Oversight Committee Act. The report  
24 shall include (1) detailed designs of the proposed solution, (2)  
25 the schedule for implementing the proposed solution, and (3) the  
26 resources required to implement the solution and the sources of  
27 such resources.

28           Sec. 9.     The committee shall report in writing to the

1 city and federal Environmental Protection Agency region in which  
2 the plant is located and to the Legislature, not less often than  
3 semiannually, regarding the plant's progress toward compliance with  
4 the Citizen Oversight Committee Act and may report more often than  
5 semiannually in the event of significant developments. The plant,  
6 the city, the Department of Environmental Quality, and any other  
7 interested parties shall cooperate fully and openly with the  
8 committee regarding the design, funding, and implementation of the  
9 measures needed to secure timely compliance with the requirements  
10 of the act and the use of any innovative technology available to  
11 decrease or eliminate odors at the plant. The report shall also  
12 track the number of odor complaints received by the city and shall  
13 indicate which complaints are attributed to the plant, to other  
14 industry, or to an unknown source. The committee's report shall be  
15 compared to the air quality reports filed by the plant to determine  
16 any correlation between odor dissemination and high odor levels at  
17 the plant. The committee's report shall be considered by the  
18 regulatory agency in determining whether to issue or renew an air  
19 quality permit for the plant.

20           Sec. 10. Section 81-15,135, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           81-15,135. The director shall have the authority to  
23 issue a temporary certificate (1) to an operator of a wastewater  
24 treatment facility which relies on the services of one person for  
25 its operation and (2) to the operator of a plant for which a  
26 citizen oversight committee has been established. A temporary  
27 certificate issued pursuant to subdivision (1) of this section  
28 shall be valid for a period of one year, after which time such

1 operator shall be required to become fully certified under the  
2 Wastewater Treatment Operator Certification Act. A temporary  
3 certificate issued pursuant to subdivision (2) of this section  
4 shall be valid for a period of one year or until all air quality  
5 and quality of life concerns have been met by the plant at which  
6 the certificate holder is employed, whichever first occurs.

7 Sec. 11. Section 81-15,136, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 81-15,136. The director may revoke, suspend, or refuse  
10 to grant the certificate of an operator, following opportunity for  
11 hearing, upon any reasonable ground including, but not limited to,  
12 the following: (1) The operator has practiced fraud or deception;  
13 (2) reasonable care was not used in the performance of duties; (3)  
14 the operator is unable to perform duties properly; ~~or~~ (4) for  
15 failure to maintain the minimal continuing education requirements  
16 of the Wastewater Treatment Operator Certification Act; or (5) the  
17 recommendation of a citizen oversight committee appointed to  
18 oversee the plant at which the certificate holder is employed.

19 Sec. 12. Original sections 81-15,135 and 81-15,136,  
20 Reissue Revised Statutes of Nebraska, are repealed.